IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3610 of 1988

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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K.B. GOLANI - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR IS SUPEHIA for Petitioner(s) : 1,
MR NAGESH SOOD, AGP for Respondent(s) : 1 - 2.
RULE UNSERVED for Respondent(s) : 3,
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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 03/10/2005

ORAL JUDGMENT

The petitioner, a Factory Manager under the Inspector General of Prisons, has preferred the present petition under Article 226 of the Constitution of India

for various reliefs. First, the petitioner has challenged his transfer from Ahmedabad to Junagadh and has also prayed that he be permitted to retain the residential quarter allotted at Ahmedabad. Pending this petition, by order dated 15th December, 1988 (Coram: A.P.Ravani, J.), the challenge to the order of transfer was rejected as withdrawn and the prayer for retention of quarter at Ahmedabad was rejected. Except that, the petitioner was permitted to retain the said quarter for a period of one month from the date of the order. In view of the said order and in view of the passage of time the reliefs prayed for in connection with the order of transfer and the residential quarter at Ahmedabad shall not survive.

The petitioner has also prayed for promotion to the post of Superintendent of Jail Industries or in the cadre of Jailor Group-I in Class-II service.

The appointment to the post of Superintendent of Jail Industries is governed by the Superintendent of Jail Industries (Jail Department) Recruitment Rules, 1973. Rule 2 thereof provides, inter alia, for appointment to the post of Superintendent of Jail Industries by promotion of a person of proved merits and efficiency

from amongst the members of the staff in the jail department or by transfer or by direct selection. It is the grievance of the petitioners that there being only one post of Superintendent of Jail Industries, there are not many chances for promotion. After retirement of one Shri N.V.Thakkar the petitioner expected to be promoted as Superintendent of Jail Industries. Instead, it was the respondent no.3 who was given an additional charge of the post of Superintendent of Jail Industries. The claim has been contested by the State Government. In the counter-affidavit filed by the State Government it is denied that the respondent No.3 was junior to the petitioner. It is stated that the respondent no.3 was appointed as Weaving Assistant in Class-III service on 10th June, 1961 and was promoted to the post of Weaving Master on 15th December, 1969 in then prevalent pay-scale of Rs.500-900. Whereas, the petitioner was appointed as Chemical Supervisor (Class-III) on 18th February, 1971 and was promoted as Factory Manager on 14th June, 1980 in then prevalent pay-scale of Rs.500-900. Thus, it is apparent that the respondent no.3 was senior to the petitioner in the cadre of their respective appointment and also in the promotional post in the pay-scale of Rs.500-900. It is not the case of the petitioner that the respondent no.3

was not eligible for promotion as Superintendent of Jail Industries. It is not the case of the petitioner that any person junior to him was ever promoted as Superintendent of Jail Industries. Thus, the claim of the petitioner for promotion as Superintendent of Jail Industries since the retirement of the above referred Shri N.V.Thakkar is misconceived and requires to be rejected.

The petitioner has also claimed that he had a right to be promoted as a Jailor Group-I in Class-II service. The claim has been contested by the State Government. It is stated that the appointment in the cadre of Jailor Group-I is made by promotion of the persons in the cadre of Jailor Group-II. The petitioner being in technical cadre was never appointed as Jailor Group-II. The petitioner had, therefore, no right to be considered for promotion as Jailor Group-I in Class-II service. The petitioner has not disputed that he was not eligible for promotion to the post of Jailor Group-I (Class-II).

In above view of the matter the petitioner's claim for promotion as Superintendent of Jail Industries (Class-II) or as Jailor Group-I (Class-II) is misconceived.

No other claim has been made by the petitioner. Petition is dismissed. Rule is discharged. There shall be no order as to cost.

(Ms. R.M.Doshit, J.)

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